

HOUSE BILL REPORT

ESB 5045

As Passed House:

April 5, 2005

Title: An act relating to allowing title insurance companies to provide a guarantee covering its agents.

Brief Description: Allowing title insurance companies to provide a guarantee covering its agents.

Sponsors: By Senators Doumit and Morton.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 3/17/05, 3/22/05 [DP].

Floor Activity:

Passed House: 4/5/05, 94-0.

Brief Summary of Engrossed Bill

- Allows title insurance companies to provide a guarantee accepting financial responsibility for up to \$200,000 for fraudulent or dishonest acts committed by its title agents. This is an alternative to existing financial requirements.
- Requires a guarantee to be approved by the Office of the Insurance Commissioner.
- Allows a title agent to meet the requirement for a fidelity bond, surety bond, or fidelity insurance by purchasing the bond or insurance through the surplus lines.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass. Signed by 10 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, Santos, Serben, Simpson, Strow and Williams.

Staff: Jon Hedegard (786-7127).

Background:

Title insurance offers protection against the risk that the title to the specified property may be encumbered. Prior to issuing a policy, title companies conduct a title search in order to

determine possible encumbrances. Title insurers and their agents are licensed and regulated by the Office of the Insurance Commissioner (OIC).

Current Financial Regulation of Title Insurers.

In order to be authorized to conduct business in Washington, a title insurance company must obtain a certificate of authority from the OIC. The certificate will not be issued unless the title insurer makes a guaranty fund deposit with the OIC. The amount required to be deposited is on the size of the largest county in which the insurer is authorized to transact business. The amount ranges from \$10,000 for a county with a population under 15,000 up to \$200,000 for a county with a population over 500,000.

Current Financial Regulation of Title Agents.

In order for a title insurance agent to obtain, renew, or reinstate a license, the agent must demonstrate financial responsibility to the OIC by showing evidence of: (1) a fidelity bond or fidelity insurance providing coverage of \$200,000 with a deductible of no more than \$10,000; and (2) a surety bond of \$10,000. The surety bond is not required if the bond or insurance in (1) does not have a deductible.

Summary of Bill:

Additional methods for title agents to satisfy their financial responsibility requirements is created. A title agent does not need to provide a fidelity bond or fidelity insurance if an authorized title insurance company in Washington provides a guarantee accepting financial responsibility up to \$200,000 for fraudulent acts committed by the title agent or the agent's employees. The guarantee is subject to the approval of the OIC. A title company may only accept financial responsibility for its properly appointed title insurance agents.

A title agent may meet the requirement for a fidelity bond, surety bond, or fidelity insurance by purchasing the bond or insurance through the surplus lines.

If a title agent works for two or more title companies and a fraudulent act occurs, the title company that issued the commitment or policy is financially responsible for the loss. If no commitment or policy has been issued, any liability will be shared proportionally among each title company for which the agent was appointed. The proportionality formula is based on the amount of the premium remitted by the agent to the title companies in the previous year. Title agents must comply within 30 days after the effective date of the bill.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This is a good and necessary bill. It is a solution to a problem for title agents. All of the title companies, agents, and interested parties support this bill and urge that you pass it.

Testimony Against: None.

Persons Testifying: Stu Halsan, Washington Land Title Association.

Persons Signed In To Testify But Not Testifying: None.